

NOTICE OF INTENDED REGULATORY ACTION
STATE WATER CONTROL BOARD - WATER QUALITY STANDARDS AMENDMENT
EXCEPTIONAL STATE WATER DESIGNATIONS FOR PORTIONS OF THE HAZEL RIVER
WITHIN THE SHENANDOAH NATIONAL PARK AND CULPEPER COUNTY
ISSUED: FEBRUARY 19, 2007
COMMENT PERIOD CLOSES: APRIL 2, 2007 at 5:00 p.m.

Notice is hereby given in accordance with §2.2-4007 of the Code of Virginia that the State Water Control Board (Board) intends to consider amending the regulation entitled 9 VAC 25-260-5 et. seq. Water Quality Standards, by designating two segments of the main stem Hazel River for special protection as Exceptional State Waters (9 VAC 25-260-30.A.3.c).

PURPOSE: This rulemaking is intended to provide special protection to these waters to maintain their current exceptional status. By ensuring that no water quality degradation is allowed to occur in waters with exceptional environmental settings and either exceptional recreational opportunities and/or exceptional aquatic communities, the Board is protecting these special waters at their present quality for use and enjoyment by future generations of Virginians.

NEED: The rulemaking is essential to the protection of the health, safety and welfare of the citizens of the Commonwealth by protecting the water quality and living resources of these particular water bodies for human consumption of fish, recreational uses and conservation. Because of the potential impact of an Exceptional State Waters designation on permitted discharges to the water body, §62.1-44.15:4.B of the State Code requires notification and opportunity for comment from potentially impacted localities and riparian property owners, so the decision by the Board to initiate a rulemaking to amend the water quality standards to designate these waters as Exceptional State Waters was made after providing an opportunity to comment and giving due consideration to their comments.

SUBSTANCE: The waters under consideration by the Board for possible Exceptional State Waters designation are: 1. the headwaters segment of the main stem Hazel River within Shenandoah National Park and; 2. the segment of the main stem Hazel River within Culpeper County.

The Exceptional State Waters category of the Antidegradation Policy allows the Board to designate waters which display exceptional environmental settings and either exceptional aquatic communities and/or exceptional recreational opportunities for added protection. Upon permanent regulatory designation of a water body as an Exceptional State Water, the quality of that water body will be maintained and protected by not allowing any degradation except on a very short term basis. No new, additional or increased point source discharge of sewage, industrial wastes or other pollution would be allowed into waters designated. In addition, no new mixing zones would be allowed in Exceptional State Waters and mixing zones from upstream or tributary waters could not extend into the Exceptional State Waters sections.

ALTERNATIVES: The primary alternative considered to date was to leave the regulation unchanged. This was not the alternative chosen because the aforementioned waters met the eligibility criteria based on the information available at the time of the preliminary evaluation.

PUBLIC PARTICIPATION: The Board is seeking comments on the intended regulatory action, including (i) ideas to assist in the development of a proposal, (ii) the costs and benefits of the alternatives stated in this notice or other alternatives, and (iii) impacts of the regulation on farm or forest lands. The Board is also soliciting comment on (iv) whether the eligibility decision criteria for Exceptional State Waters designation are met for these waters. Anyone wishing to submit written comments for the public comment file may do so at the public meeting, by mail or by e-mail to David Whitehurst at the contact information below. Written comments must include the name and address of the commenter and must be received no later than 5:00 p.m. on April 2, 2007.

A public meeting will be held on March 27, 2007 at 5:00 p.m. at the Culpeper County Board of Supervisors Meeting Room, 302 North Main Street, Culpeper, Virginia 22701. Both oral and written comments may be submitted at that time.

The meeting will be held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact David Whitehurst at the address or telephone number given below. Persons needing interpreter services for the deaf must notify Mr. Whitehurst by March 13, 2007.

PARTICIPATORY APPROACH: The board will use an advisory committee to develop a proposal if it receives at least five written requests to use an advisory committee prior to the end of the public comment period. Persons requesting that DEQ use an advisory committee and are interested in assisting in the development of a proposal should notify the DEQ contact person by the end of the comment period and provide their name, address, phone number, e-mail address and affiliated organization (if any). Notification of the composition of the advisory committee will be sent to all applicants.

CONTACT: Additional information is available on the Department of Environmental Quality web site at <http://www.deq.virginia.gov/wqs/> or contact David C. Whitehurst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, or telephone (804) 698-4121 or 1-800-592-5482 or TDD (804) 698-4261 or e-mail at dcwhitehurst@deq.virginia.gov.